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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,611	03/11/2005	Daniel R. Faltysek	198-0002US	7271
29855	7590	03/23/2006	EXAMINER	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			BATSON, VICTOR D	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/527,611

Applicant(s)

FALTYSEK, DANIEL R.

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-6, 14-22 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-13 and 25 is/are allowed.
- 6) ☒ Claim(s) 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Objections

Claims 7-13,25 are objected to because of the following informalities: In claim 7 lines 2-3, "the shank" lacks proper antecedent basis. In claim 7 line 7, "the side" lacks proper antecedent basis. In claim 7 line 15, "the withdrawal" lacks proper antecedent basis. In claim 7 line 19, "the side of the rotating body" lacks proper antecedent basis. In claim 13 line 2, it appears that "the" should be inserted before "upper cylindrical bushing". In claim 25 lines 2-3, "the shank" lacks proper antecedent basis. In claim 25 line 7, "the side" lacks proper antecedent basis. In claim 25 line 13, "the withdrawal" lacks proper antecedent basis. In claim 25 line 24, "the retainer" lacks proper antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23 & 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Dufty et al. (5,509,487).

Dufty et al. discloses a turf drill chuck (shown but not numbered) that attaches turf drill bit 44 to bearing plates 45. The drill chuck allows for rotation of the drill bit when powered by the drive motor and prevents rotation of the drill bit when the motor is not operating.

Art Unit: 3671

Claims 23 & 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Thom (2,918,130).

Thom discloses a turf drill chuck 12 that attaches turf drill bit 44 to bearing plates 14. The drill chuck allows for rotation of the drill bit when powered by the drive motor and prevents rotation of the drill bit when the motor is not operating.

Allowable Subject Matter

Claims 7-13,25 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Election/Restrictions

Applicant's election with traverse of claims 7-13,23-25 in the reply filed on 1/4/06 is acknowledged. The traversal is on the ground(s) that the office action does not identify another materially different apparatus that could be used to practice the process. This is not found persuasive because the materially different apparatus has been set forth as an apparatus including the specific chuck not required by the method claims 1 & 2. Applicant further argues that the Office Action does not state how one could "allow the [turf] drill to rotate" during insertion and "prevent the drill from rotating" by hand while withdrawing it from the soil. It is noted that the distinction between the method and apparatus claims is that the method can be practiced by another materially different apparatus, not that the process can be practiced by hand. Additionally, since

Art Unit: 3671


claims 21 & 22 are drawn to the subcombination of a drill chuck and do not include a drill bit, claims 21 & 22 are included in invention II. The requirement is still deemed proper and is therefore made FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 20, 2006


Victor Batson
Primary Examiner
Art Unit 3671